

Appl. No. 10/600,774  
Atty. Docket No. 9281  
Amdt. dated March 16, 2006  
Reply to Office Action of December 16, 2005  
Customer No. 27752

### **REMARKS**

#### **Claim Status**

Claims 1-20 are pending in the present application. No additional claims fee is believed to be due.

Claim 18 is canceled without prejudice.

Claims 1 and 17 have been amended to add the limitation of claim 7, "wherein the facing layer is joined to the absorbent core at substantially the entirety of their respective interfacial surfaces". Support for the amendment is found at claim 7 as originally filed, which has been cancelled herein.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

#### **Rejection Under 35 USC §112 Second Paragraph**

Claims 1, 2, 12 and 13 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter.

The Office Action States Claims 1, 2, 12 and 13 merely set forth physical characteristics desired in an article, and not setting forth specific compositions, which would meet such characteristics, are invalid as vague, indefinite, and functional.

Applicants respectfully traverse this rejection for the reasons set forth below. The MPEP §2173.05(g) states, "A functional limitation is an attempt to define something by what it does, rather than by what it is (e.g., as evidenced by its specific structure or specific ingredients). There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper." *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971) *In re Swinehart* further states, "We are convinced that there is no support, either in the actual holdings of prior cases or in the statute, for the proposition, put forward here, that

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"functional" language, in and of itself, renders a claim improper." Therefore as stated in the MPEP and case history, claims containing functional language are proper and definite in regard to 35 U.S.C. §112 second paragraph.

Accordingly, Applicants respectfully submit that Claims 1, 2, 12 and 13, particularly in light of the amendment to Claim 1, are definite and the rejection should be withdrawn.

**Rejection Under 35 U.S.C. §102(b)/§103(a) Over Chen et al. (US Pat. No. 6,503,233)**

Claims 1-8, 12-18 and 20 have been rejected under 35 U.S.C. §102(b) as anticipate by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Chen et al. (US Pat. No. 6,503,233).

Claims 1 and 17 have been amended to include the claim limitation "and wherein the facing layer is joined to the absorbent core at substantially the entirety of their respective interfacial surfaces."

The Office Action does not indicate in Chen where is found disclosure of "and wherein the facing layer is joined to the absorbent core at substantially the entirety of their respective interfacial surfaces." In particular, Applicants do not find disclosure of this limitation in Col. 2, lines 46-55, as stated in the Office Action.

Accordingly, Applicants respectfully submit that Claims 1 and 17 are not anticipated by Chen '233. Therefore, Claims 1 and 17, as well as their respective dependent claims are novel and patentable over Chen '233.

Likewise, there is not suggestion or motivation to modify Chen '233 to have the facing layer joined to the absorbent core at substantially the entirety of their respective interfacial surfaces.

Accordingly, Applicants respectfully submit that Claims 1 and 17 are not obvious in view of Chen '233. Therefore, Claims 1 and 17, as well as their respective dependent claims are non-obvious and patentable over Chen '233.

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Applicants respectfully request that the §102/103 rejection of Claims 1-8, 12-18 and 20 be withdrawn.

**Rejection Under 35 U.S.C. §103(a) Over Chen et al. (US Pat. No. 6,503,233) in view of Cinelli et al. (US Patent Application Pub. No. 2002/0013565)**

Claims 9-11 and 19 have been rejected under 35 U.S.C. §103(a) as obvious over Chen et al. (US Pat. No. 6,503,233) in view of Cinelli et al. (US Patent Application Pub. No. 2002/0013565).

As shown above Chen fails to render Claims 1 or 17 obvious. Claims 9-11 and 19 depend from either Claim 1 or Claim 17. Accordingly, with or without the addition of Cinelli, Applicants submit that Claims 9-11 and 19 are likewise patentable over the cited art.

Applicants respectfully request that the §103 rejection of Claims 9-11 and 19 be withdrawn.

**Conclusion**

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-20 is respectfully requested.

Respectfully submitted,

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